

CITY OF MIDDLEBURG HEIGHTS, OHIO

Resolution No. 2024-**84**

Introduced By: Mayor Matthew Castelli

A RESOLUTION

AUTHORIZING THE MAYOR TO ENTER INTO AN INDEPENDENT CONTRACTOR AGREEMENT WITH JULIE K. SIPKA OF SIPKA ARCHITECTS FOR PLANS EXAMINER SERVICES IN CONNECTION WITH THE BUILDING CODE OF THE CITY OF MIDDLEBURG HEIGHTS AND THE OHIO BUILDING CODE

WHEREAS, the Building Department of the City is a Certified Building Department pursuant to the rules and regulations for Certification of the Ohio Board of Building Standards to accept, examine, approve and inspect plans and specifications and construction of buildings and structures regulated by the Ohio Building Code; and

WHEREAS, the City has and will continue to have in its employ full-time personnel meeting the specific requirements of the Board of Building Standards to enforce the provisions of the Ohio Building Code for approval of plans and specifications; and

WHEREAS, the City is desirous of contracting for qualified Certified Plans Examiners, under a professional services contract, to enforce the provision of the Ohio Building Code relating to approval of plans and specifications in order to assist its full-time personnel in performing their normal plans examining duties.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MIDDLEBURG HEIGHTS, STATE OF OHIO, AS FOLLOWS:

Section 1: That the Mayor be and is hereby authorized and directed to enter into an Independent Contractor Agreement commencing on the date of execution of the agreement, and terminating on the 31st day of December, 2025 with JULIE K. SIPKA of SIPKA ARCHITECTS to provide professional services as a certified plans examiner in connection with the Building Code of the City and the Ohio Building Code, a copy of the agreement is attached hereto and marked "Exhibit A"

Section 2: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Chapter 107 of the Middleburg Heights Code and Section 121.22 of the Ohio Revised Code.

Passed: 10/8/24

David Bortolotto
President of Council

Attest: M. Meola
Clerk of Council

Approved On: 10-9-24

Presented to Mayor: 10/9/24

Matthew Gustaf
Mayor

	Yea	Nay
Bortolotto	<u>X</u>	_____
Ali	<u>X</u>	_____
Sage	<u>X</u>	_____
Meany	<u>X</u>	_____
McGregor	<u>X</u>	_____
Ference	<u>X</u>	_____
Zakel	<u>X</u>	_____

I, Mary Ann Meola Clerk of the Council of the City of Middleburg Hts., Ohio, hereby certify that Res 2024-84 adopted by the Council of the City of Middleburg Hts., on 10/8/24 was posted for a period of fifteen days, beginning 10/10/24 and remained so posted for fifteen days at the two posting places as designated by Charter.

Mary Ann Meola
Clerk

CERTIFICATE

I, Mary Ann Meola Clerk of Council of the City of Middleburg Heights, Ohio, do hereby certify that the foregoing is a true and accurate copy of Res. 2024-84 passed on the 8th day of October 2024 by said Council.

Mary Ann Meola
Clerk of Council

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SEP 16 2024

Middleburg Heights
Building Dept.

**INDEPENDENT CONTRACTOR AGREEMENT
FOR PLANS EXAMINER SERVICES**

THIS AGREEMENT, by and between the **CITY OF MIDDLEBURG HEIGHTS**, located at 15700 Bagley Rd., Middleburg Heights, Ohio 44130, hereinafter called the "City", and JULIE K SIPKA, of the firm SIPKA ARCHITECTS located at 3339 S. SMITH RD. FAIRLAWN OH, hereinafter called the "Consultant".
44333

WHEREAS, the Building Department of the City is a Certified Building Department pursuant to the rules and regulations for Certification of the Ohio Board of Building Standards to accept, examine, approve and inspect plans and specifications and constructions of buildings and structures regulated by the Ohio Building Code; and

WHEREAS, the City has and will continue to have in its employ full-time personnel meeting the specific requirements of the Board of Building Standards to enforce the provisions of the Ohio Building Code for approval of plans and specifications; and

WHEREAS, the City is desirous of contracting for qualified Certified Plans Examiners, under a professional services contract, to enforce the provisions of the Ohio Building Code relating to approval of plans and specifications in order to assist its full-time personnel in performing their normal plans examining duties.

NOW, THEREFORE, in consideration of these promises and the mutual covenants hereinafter set forth, it is agreed as follows:

SECTION I - SCOPE OF SERVICES

Upon request of the Building Commissioner, the Consultant agrees to provide to the City, on a priority basis, professional services as a certified plans examiner to review and examine construction documents submitted to the Building Division of the City to determine compliance with the Ohio Building Code (and pursuant to the provisions of the Ohio Administrative Code) throughout the duration of this Agreement.

SECTION II - TERM OF AGREEMENT

The term of this Agreement shall commence on the date of execution of this Agreement, and shall terminate on the **31st day of December, 2025**, unless extended by the parties.

SECTION III - PAYMENT

The City agrees to pay the Consultant plan review fees based upon the hourly rate charged, not to exceed One Hundred dollars (\$100.00) per hour. Invoices setting forth these charges shall be submitted as accrued on a regular basis. The Consultant will be fully and solely responsible for Consultant's payment of all taxes and other charges on Consultant's compensation as required by federal, state or local law, including but not limited to all City of Middleburg Heights municipal income taxes.

SECTION IV - AGENCY

It is expressly understood and agreed that in the performance of services under this Agreement, Consultant shall act as agent of the City for purposes of certifying various plans review in accordance with State law. However, in every other respect, the Consultant will be an independent contractor and neither party shall be deemed a servant, employee or representative of the other.

SECTION V - PLANS AND DOCUMENTS

All applications, construction documents, reports, design notes, inspection records and all other documents submitted to or prepared by the City, its employees and the Consultant, which are in the possession of the Consultant, shall be and remain public records of the City and shall be furnished or returned to the Building Division immediately upon request of the Building Commissioner.

SECTION VI - SUSPENSION OR TERMINATION OF PERFORMANCE

The Mayor may at any time, and for any reason, direct Consultant to stop work under this Agreement for any period of time. Such direction shall be in writing and shall specify the period during which work shall be stopped. Consultant shall resume work upon the date specified in such direction, or upon such other date as the Mayor may thereafter specify in writing.

The Mayor may at any time, and for any reason, terminate this Agreement by written notice to Consultant specifying the termination date, which shall not be less than fourteen (14) days from the date such notice is given. In the event of such termination, Consultant shall be paid such amount as shall compensate Consultant for the portion of the work satisfactorily performed prior to the termination date. Such amount shall be subject to approval by the Mayor. Termination under this section shall not give rise to any claim against the Mayor or the City for damages or for the compensation in addition to that provided hereunder.

SECTION VII - PERSONAL SERVICES OF CONSULTANT

It is the intent of this Agreement to secure the personal services of Consultant. Failure of Consultant for any reason to make such personal service available to the City to the extent necessary to perform the services required skillfully and promptly shall be grounds for termination of this Agreement.

SECTION VIII - ASSIGNMENT

Consultant shall not assign, transfer, convey, pledge, sublet or otherwise dispose of this Agreement without the prior written consent of the Mayor and Council, if required by law.

SECTION IX - TIME OF PERFORMANCE

The work to be performed under this Agreement shall commence promptly and shall be pursued diligently and completed promptly and within the time parameters established for the performance of such work in the applicable provisions of the Ohio Building Code and in accordance with requests of the City's Building Commissioner. Time is of the essence in the performance of all phases of this Agreement.

SECTION X - AUDIT AND REVISION

This Agreement and all payments hereunder shall be subject to audit and revision by the Mayor and the Director of Finance, or their designated representatives.

SECTION XI - FUNDING SOURCE

All payments shall be paid by the City out of such monies as may be reserved by the Director of Finance of the City for the purposes herein provided. The Mayor and any other person or agency duly authorized to act for and on behalf of the City shall not by virtue of such authority or action be liable in any manner whatsoever to Consultant.

SECTION XII - INSURANCE

Consultant will secure and maintain during the life of this Agreement the following insurance, limits and conditions:

Comprehensive General Liability coverage including personal injury coverage and contractual liability coverage with minimum limits of \$1,000,000.00, respectively.

Comprehensive Automobile Liability coverage including owned, non-owned, and hired coverage. The minimum limits shall be \$1,000,000.00 for bodily injury and \$1,000,000.00 for property damage liability.

Professional Liability Insurance in the amount of \$1,000,000.00 as the minimum limit to cover all sums which Consultant shall become legally obligated to pay as damages by reason of any act, error or omission committed or alleged to have been committed by Consultant or any person or organization for whom Consultant is legally liable.

Compliance with the Ohio Workers' Compensation Act and Ohio Unemployment Compensation law for all employees engaged in work under this Agreement.

All required insurances shall be maintained with responsible insurance carriers qualified to do business in the State of Ohio and approved by the State Superintendent of Insurance. As soon as practical upon execution of this Agreement and before commencing any performance hereunder, Consultant shall deposit, with the City, the original policies or insurance, or certificates therefore, bearing notations or accompanied by other evidence satisfactory to the City of the payment of premiums and thereafter not less than ten (10) days before the expiration dates of the expiring policies.

SECTION XIII - AMENDMENTS

Amendments, modifications, or changes to this Agreement shall not be effective unless in writing and approved by the Mayor and, when required by law, the Council.

SECTION XIV - NOTICES

Except as otherwise provided herein, any notice, approval, acceptance, request, bill, demand or statement hereunder from either party to the other shall be in writing and shall be deemed to have been given when either delivered personally or deposited in a U.S. mailbox in a postage-prepaid envelope, addressed to the other party. Either party may at any time change such address by delivering or mailing, as aforesaid, to the other party a notice stating the change and the changed address.

SECTION XV - CONFLICT OF INTEREST/DISCLOSURE

Consultant covenants that Consultant has no interest, nor shall Consultant acquire any interest, directly or indirectly, which would conflict in any manner or degree with the performance of this Agreement.

The Consultant affirms that Consultant has not agreed to make any valuable gift whether in the form of service, loan, thing or promise to any person or any of Consultant's immediate family, having the duty to recommend, the right to vote upon, or any other direct influence on the selection of consultants to provide plans review services to the City. A voluntary campaign contribution made pursuant to law shall not be considered as a valuable gift for the purpose of this Agreement.

SECTION XVI - DISCRIMINATION PROHIBITED

In performing the services required under this Agreement, the Consultant shall not discriminate against any person on the basis of gender, race, color, religion, national origin or ancestry, age or physical handicap.

SECTION XVII - EXTENT OF AGREEMENT

This Agreement represents the entire and integrated Agreement between the City and the Consultant, and supersedes any and all prior negotiations, representations or agreements, either written or oral. It shall not be changed, amended, or modified without the prior written approval of both parties hereto, including the City's Mayor and when required by law, the Council.

SECTION XVIII - EFFECTIVE AND BINDING

This Agreement shall not become effective or binding upon the City unless and until the Mayor has executed the same, thereafter the Director of Finance of the City shall have endorsed hereon the Consultant's certificate of availability of funds applicable to this Agreement. Evidence of said authorization and certification of funds shall be issued to Consultant by the City before Consultant will proceed with the work.

SECTION XIX - CAPTIONS AND HEADNOTES

The captions or head notes on articles or sections of this Agreement, and marginal notes are intended for convenience and reference purposes only and in no way define, limit or describe the scope or intent thereof, or of this Agreement nor in any way affect the Agreement.

IN WITNESS WHEREOF, the parties hereunto set forth their hand this ____ day of _____, 2024.

CONSULTANT

Julie K. Shipka
Name

Date: _____

CITY OF MIDDLEBURG HEIGHTS, OHIO

Matthew J. Castelli
Matthew J. Castelli, Mayor

Date: 10-9-24

CERTIFICATE OF LAW DIRECTOR

I hereby certify that I have reviewed and approved the form of the foregoing Agreement this 24 day of Sept., 2024.

[Signature]
Law Director